

CHARLES S. PAINTER (SBN 89045)
REBECCA L. MENENDEZ (SBN 262487)
ERICKSEN ARBUTHNOT
100 Howe Avenue, Suite 110 South
Sacramento, CA 95825-8201
Tel: (916) 483-5181
cpainter@ericksenarbuthnot.com
rmenendez@ericksenarbuthnot.com

and

MARTIN H. ORLICK (SBN 083908)
STUART K. TUBIS (SBN 278278)
CHRISTOPHER WHANG (SBN 316916)
JEFFER MANGELS BUTLER & MITCHELL, LLP
Two Embarcadero Center, 5th Floor
San Francisco, CA 94111
Tel: 415-398-8080
mho@jmbm.com
skt@jmbm.com
cwhang@jmbm.com

Attorneys for Defendants. ESA P PORTFOLIO, L.L.C. and
ESA MANAGEMENT, LLC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL PATTON,)	Case No.: 1:20-cv-01498-DAD-SKO
)	
Plaintiff,)	STIPULATION RE FIRST AMENDED
)	COMPLAINT AND LEAVE FOR
vs.)	PLAINTIFF TO FILE SECOND
)	AMENDED COMPLAINT AND ORDER
EXTENDED STAY AMERICA, INC., ESA P)	
PORTFOLIO, L.L.C., ESA P PORTFOLIO)	(Doc. 41)
OPERATING LESSEE, INC., ESA)	
MANAGEMENT, LLC and DOES 1 – 50,)	Action Filed: October 21, 2020
)	Trial Date: None Set
Defendants.)	
)	

WHEREAS, Plaintiff MICHAEL PATTON, filed and served his First Amended Complaint (ECF No. 36) on December 6, 2021 and Defendants responsive pleading due on Monday January 10, 2022 per this court order (ECF No. 38)

WHEREAS, this requested stipulation will not impact the court modified scheduling order (ECF No. 33)

1 WHEREAS, the attorneys for the parties have met and conferred in good faith regarding
2 and inadvertent error in the First Amended Complaint wherein it names two dismissed
3 defendants, EXTENDED STAY AMERICA, INC. and ESA P PORTFOLIO OPERATING
4 LESSEE, INC. (ECF No. 20)

5 WHEREAS, the parties by and through their attorneys stipulate as follows:

6 COMES NOW, Plaintiff MICHAEL PATTON and Defendants ESA P PORTFOLIO,
7 L.L.C. and ESA MANAGEMENT, LLC, by and through their respective attorneys of record and
8 stipulate that Plaintiff Michael Patton is allowed to file and serve a Second Amended Complaint
9 that mirrors the First Amended Complaint with the exception that paragraphs 3 and 5 as set forth
10 in First Amended Complaint will be eliminated and the Second Amended Complaint will also
11 eliminate any and all references to either Defendant, EXTENDED STAY AMERICA, INC. and
12 \ or Defendant, ESA P PORTFOLIO OPERATING LESSEE, INC. It is further stipulated that
13 Defendants need not file responsive pleadings to the First Amended Complaint. Plaintiff will file
14 his Second Amended Complaint within 14 days of the date of this order. Defendants, ESA
15 MANAGEMENT, LLC AND ESA P PORTFOLIO, L.L.C. will file their responsive pleading
16 within 14 days of the filing of Second Amended Complaint.

17
18 DATED: January 10, 2022

19 ERICKSEN ARBUTHNOT

20 By



21 CHARLES S. PAINTER
22 REBECCA L. MENENDEZ
23 Attorneys for Defendants ESA P
24 PORTFOLIO, L.L.C. and
25 ESA MANAGEMENT, LLC
26
27
28

DATED: January 10, 2022

VICKERY & SHEPHERD, LLP

By /s/ Fred Shepherd (as authorized 1-10-2022)

FRED SHEPHERD
Attorney for Plaintiff MICHAEL
PATTON

ORDER

In view of the parties' forgoing stipulation (Doc. 41), and for good cause shown, it is hereby ORDERED that:

1) Defendants do not have to file responsive pleadings to the First Amended Complaint;
2) Plaintiff is granted leave to file his Second Amended Complaint which will mirror the allegations of First Amended Complaint with the following modifications:

Paragraphs 3 and 5 of the First Amended Complaint will be eliminated and all references to either Defendants, Extended Stay America, Inc. and \ or ESA P Portfolio, L.L.C. will be eliminated in the Second Amended Complaint;

3) Plaintiff will file his Second Amended Complaint within 14 days of the date of this order; and

4) Defendants will file their responsive pleadings with 14 days of the date the Second Amended Complaint is filed.

IT IS SO ORDERED.

Dated: January 11, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE